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DRAFT REVISED BUDGET ESTIMATES FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA COVERING THE PERIOD AUGUST 1996-DECEMBER 1997

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I. INTRODUCTION

1. The International Tribunal for the Law of the Sea (hereinafter "the Tribunal") was created by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). The Statute of the Tribunal (annex VI to the Convention) sets out its method of functioning and its composition. It is a body of 21 elected Members (judges) and is served by a Registry. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea was charged with making the necessary arrangements for the commencement of the functions of the Tribunal. Special Commission 4, with delegated responsibility, 1/ *inter alia*, prepared a report containing recommendations regarding practical arrangements for the establishment of the Tribunal, which was submitted to the Meeting of States Parties to the Convention 2/ by the Preparatory Commission.

II. CONSIDERATION OF ADMINISTRATIVE AND BUDGETARY REQUIREMENTS BY THE MEETINGS OF STATES PARTIES

2. The second Meeting of States Parties, held in New York from 15 to 19 May 1995, considered administrative and budgetary requirements of the Tribunal. It agreed on the approach to be followed concerning the establishment of the Tribunal, its initial functions and related matters. 3/

3. The approach and assumptions relevant to preparing the draft budget were laid out in some detail, 4/ emphasizing that the principle of cost-effectiveness would apply to all aspects of the work of the Tribunal. On that basis, the Meeting requested and the Secretariat prepared a draft budget of the Tribunal for the initial period, from 1 August 1996 to 31 December 1997 (SPLOS/WP.1).

4. Consistent with its earlier decisions, that draft budget was reviewed and revised by the Meeting of States Parties, with the participation of financial experts of States, at its third Meeting (New York, 27 November-1 December 1995). The report of that Meeting (SPLOS/5) reflects that review. The budgetary estimates presented herein incorporate the results of the review and also the conclusions and implications arising therefrom. The proposed staffing structures and related costs were closely scrutinized and substantially trimmed. Reductions were made in the estimates for recurrent and non-recurrent expenditures. The overall estimates were strictly limited.

5. The estimates resulting from the above revision, together with the applicable criteria, were presented to the fourth meeting (New York, 4-8 March 1996) for adoption.

III. WORK PROGRAMME OF THE TRIBUNAL DURING THE INITIAL PERIOD

6. The organizational arrangements for the tribunal during this preliminary organizational phase, or the "start-up" period of the Tribunal's activities were set out in SPLOS/WP.1. 5/

7. In reviewing the administrative arrangements and structure and staffing of the Registry, the third Meeting of States Parties decided that the initial period from 1 August 1996 to 31 December 1997 would constitute a single phase at the end of which, in January 1998, the Tribunal would enter the first functional phase. The Meeting assumed that the required level of staff and services to fulfil the needs of the first functional phase that follows in 1998 and the appropriate arrangements would be determined in due time by the Tribunal and its Registry, for the approval of the Meeting of States Parties. It is assumed that in the first functional phase, an appropriate structure for the Registry would be required. 6/

A. Judiciary

8. During the preliminary organizational phase, which is anticipated to span 15 months from when all 21 judges first convene, they would organize their work, elect officials from among themselves, make the necessary administrative arrangements and appoint an Acting Registrar. The judges would also have to adopt the Rules of the Tribunal, formulate the terms and conditions of service for the officials and staff of the Registry, organize the procedures and arrangements, including those for dealing with cases and internal procedures, for budget, accounts, administration, personnel, etc., elect a Registrar and appoint a deputy.

B. Registry

9. The Registry, as the administrative organ, is required to: (a) provide legal, procedural, administrative, linguistic and any technical support; (b) be responsible for the financial and accounting administration; (c) also be responsible for documentation, archiving and library services; (d) carry out personnel management and administration; and (e) provide for all purchasing, storage and other general services. The organization of the Registry and the appointment of staff are to be approved by the Tribunal on the recommendation of the Registrar.

10. Initially a small nucleus of staff would service the meetings of the judges and organize the Registry. Pending the establishment of terms, conditions and other arrangements and the adoption of administrative and financial rules, an Acting Registrar would be charged with carrying out those functions.

11. During the start-up period the Registry would have to carry out its internal administrative organization and recruitment, while giving effect to the personnel, budgetary and accounting arrangements that are adopted.

12. One of the areas of internal organization, as emphasized by both the Preparatory Commission and the General Assembly, 7/ would be the establishment of the library of the Tribunal and making it operational. No budgetary provision has been made for this purpose.

IV. ADMINISTRATIVE EXPENSES OF THE TRIBUNAL: CRITERIA APPLIED

A. Members of the Tribunal and their remuneration

13. Consistent with the determination of the Meeting of States Parties, 8/ the overall remuneration of the Members of the Tribunal will consist of three elements: an annual allowance, a special allowance for each day that they are engaged on the business of the Tribunal, and a subsistence allowance for each day that they are required to be present at the seat of the Tribunal. The overall remuneration of the Members of the Tribunal would not exceed the level of remuneration of a Judge of the International Court of Justice.

14. The remuneration of the Judges of the International Court of Justice, as determined by the General Assembly, is reflected in document A/C.5/48/66. They receive a net salary of $145,000 per annum, which is the comparator and the basis for the estimates presented herein.

15. In these estimates, following the criteria established in the deliberations, taking into account the level of remuneration of the Members of the Tribunal on the basis of equivalencies with remuneration levels of Judges of the International Court of Justice as well as the requirements of the Statute, 9/ the annual allowance would be one third of the net salary of the comparator (approximately $48,000). 10/ The Members of the Tribunal will receive a special allowance, computed only for periods when they are actively engaged on the business of the Tribunal. The maximum special allowance for any calendar year would also be one third of the net salary of the comparator (approximately $48,300). 11/ Their remuneration is dependent upon duration of engagement on the business of the Tribunal and presence at the seat of the Tribunal.

16. As regards subsistence allowance payable for each day that a judge is present at the seat of the Tribunal, consistent with the earlier estimates and deliberations, where presence at the seat of the Tribunal is required for a prolonged period, the maximum subsistence allowance would be for 250 working days in any calendar year. For the purposes of the present estimates, the current level of daily subsistence allowance for Hamburg under United Nations practice has been used. 12/ The maximum amount of subsistence allowance for any calendar year would therefore also be computed at approximately $48,000 on the basis of one third of the net salary of the comparator.

17. Based on these criteria using the comparator would result in maintaining equivalence with the remuneration levels of Judges of the International Court of Justice.

18. During the initial period, August 1996-December 1997, other than the President, the 20 Members of the Tribunal would not be required to reside at the seat of the Tribunal. 13/ They would thus receive the annual allowance, the special allowance for each day that they are engaged on the business of the Tribunal and a subsistence allowance for each day that they are in attendance at the seat of the Tribunal. The President of the Tribunal will reside at the seat of the Tribunal and would be entitled to an annual overall remuneration of

$145,000. In addition, he will receive a special annual allowance, 14/ which for the purpose of these estimates is $15,000.

19. The Members of the Tribunal will meet for up to 12 weeks during the initial period, August 1996-December 1997. 15/ Thus, other than the President of the Tribunal, each of the 20 Members of the Tribunal would receive the special allowance for up to 12 weeks as well as subsistence allowance for up to 12 weeks during the period.

20. The present estimates provide for up to 12 weeks of preparatory work by Members of the Tribunal. In carrying out such preparatory work all 20 Members (the President being resident at the seat) would meet at the seat of the Tribunal for half of the 12 weeks, i.e., 6 weeks. Thus, on account of preparatory work, other than the President of the Tribunal, each of the 20 Members of the Tribunal would receive the special allowance for up to 12 weeks and subsistence allowance for up to 6 weeks.

21. The view was expressed in the deliberations of the third Meeting of States Parties that the Tribunal should be seen as a judicial institution that embodies the highest expertise in the law of the sea and related fields. The remuneration of Members of the Tribunal should be commensurate with the calibre and standing of the eminent jurists who would be elected to the Tribunal. They would lend their distinction, their stature and their international reputation to the Tribunal.

22. In this context, note was also taken of the restrictions imposed upon Members of the Tribunal by the Convention in annex VI, article 7, which provides:

> "1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed.
>
> "2. No member of the Tribunal may act as agent, counsel or advocate in any case.
>
> "3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present."

B. Staff of the Registry and their remuneration

23. The third Meeting of States Parties reviewed the earlier proposals and concluded that in the development of the Registry the initial period between August 1996 and December 1997 could be considered to represent a start-up phase leading towards the first functional phase. The start-up will be with a small nucleus of staff to service the executive sessions of the judges and to serve to organize and carry out the functions of the Registry. The number and level of the staff at start-up as well as the indicative designation of functions, as proposed by the Meeting of States Parties, are presented in annexes I and II to

the present document. Following the election of the Registrar, the post would be encumbered at the level of Assistant Secretary-General, while the D-1 level post would be eliminated. No adjustment in the estimates would be required.

24. Some flexibility has been reflected in the definition of functions and utilization of posts that are required. For the same reason, multivalent staff having expertise in different areas may be preferable to staff with defined and limited specialities.

25. Since the demands of creating a new institution are not predictable, the Meeting of States Parties has also made some limited provision for contingencies which would allow the engagement of temporary staff. This appropriation would be utilized as the needs dictate. However, if any applications or cases are to be taken up for consideration, deliberations or hearings during the initial budget period (1996-1997), the financial implications of court proceedings would have to be estimated separately and appropriate budgetary arrangements would be required. The Meeting of States Parties may consider whether the President of the Tribunal and/or the Registrar can initiate a procedure by which to respond should an emergency situation arise during this period.

26. In these estimates, it is assumed that the staff of the Registry would be remunerated according to the practice of the United Nations common system of organizations. 16/

C. Transitional arrangements

27. During the initial period, to provide continuity of services, the Secretary-General may, from 1 August 1996, appoint on an interim basis for up to one year such staff as may be needed, against those approved in the initial budget. He may assign or second staff from the United Nations Secretariat to the Registry of the Tribunal for this purpose.

28. To provide for the transition from the services of the Secretariat of the United Nations, the Secretary-General may also assign an Acting Registrar for a period pending the election of the Registrar by the Tribunal.

29. The United Nations may likewise recruit General Services level staff on a short-term basis and shall administer the staff so recruited. This would mean that the staff would serve under the Staff Regulations and Rules of the United Nations and the processing of entitlements would also be done under its staff rules and regulations, pending the adoption of administrative and staff rules by the Tribunal.

D. Other items of recurrent expenditure

30. The Meeting of States Parties also reviewed estimates of other items of recurrent expenditure as well as items of non-recurrent expenditure, as presented in SPLOS/WP.1/Rev.1, annex. Such objects of expenditure include temporary assistance for meetings, general temporary assistance and official

travel of staff. Communications requirements are special, particularly to serve the judges, whether at the seat or at other locations. 17/

E. Non-recurrent expenditures

31. Estimates of non-recurrent expenditures, as reviewed, include those pertaining to office equipment and furniture, data-processing equipment, transportation equipment, etc.

F. Estimates

32. The estimates for the administrative expenses of the Tribunal for the period from 1 August 1996 to 31 December 1997 as reviewed and revised by the Meeting of States Parties are presented in annex III, as follows: (a) recurrent expenditures; (b) non-recurrent expenditures; (c) start-up costs (preparatory work: April-July 1996) and (d) contingencies.

V. FUNDING OF THE BUDGET FOR THE INITIAL PERIOD AND ASSESSED CONTRIBUTIONS

33. The Convention states that the expenses of the Tribunal shall be borne by the States Parties and the International Seabed Authority and also by other users of the Tribunal, including States that are not States Parties. 18/

34. A scheme for apportionment among States Parties and a provisional scale of assessments was approved. States Parties would make contributions in accordance therewith. States that become Parties to the Convention thereafter would contribute to the initial budget of the Tribunal in accordance with the provisional scale adjusted to include the new States Parties.

35. The draft decisions to be taken by the fourth Meeting of States Parties on budgetary matters were specific, and are contained in SPLOS/CRP.6.

VI. PREPARATORY WORK

36. The Meeting of States Parties reviewed the needs of a preparatory nature (see SPLOS/WP.1, paras. 26 and 34 and SPLOS/WP.1/Rev.1, para. 44). The post requirements for the period from April to July 1996 were set out in those documents.

37. The related costs estimated at $191,500, composed of staff costs ($156,000) and costs of preparatory missions ($35,500) are reflected in annex III to the present document, section C, start-up costs (preparatory work: April-July 1996).

Notes

1/ The documentation of Special Commission 4 is contained in LOS/PCN/152, vols. I-IV.

2/ See para. 10 of resolution I of the Third United Nations Conference on the Law of the Sea. The Meeting of States Parties for election of the Members (judges) of the Tribunal is to be convened in accordance with annex VI, article 4(4), of the Convention.

3/ See SPLOS/4, in particular, sect. III.A-C.

4/ SPLOS/4, paras. 25-29.

5/ SPLOS/WP.1, paras. 6 and 7.

6/ Presented in SPLOS/WP.1, paras. 12 and 25.

7/ LOS/PCN/L.115/Rev.1, para. 43 (d); General Assembly resolution 49/28, para. 11.

8/ SPLOS/4, para. 25(a)(iv).

9/ Convention, annex VI, article 18.

10/ Adopted in these estimates.

11/ According to the Convention, annex VI, article 18(1), in any year the total sum payable to any Member of the Tribunal as special allowance shall not exceed the amount of the annual allowance. The special allowance would be paid to a Member on a pro rata basis for those weeks that he/she is engaged in the business of the Tribunal.

12/ Approximately $219 for the first 60 days and approximately $164 thereafter (see ICSC/CIRC/DSA/240, p. 15).

13/ See SPLOS/4, para. 25(a)(iii).

14/ See Convention, annex VI, article 18(2).

15/ See SPLOS/4, para. 25(a)(ii).

16/ See also LOS/PCN/142, para. 25, and SPLOS/WP.1, para. 27. Information relating to the application of the practice is provided in the footnotes to the table in SPLOS/WP.1.

17/ The need for facsimile services, access to networks and legal databases as used in an International Court is noted. SPLOS/4 indicates the need for preparatory work by the Members, which also has implications for communications requirements (see SPLOS/WP.1, para. 28). These needs also have a bearing on the acquisition of computer-related equipment, identified under "non-recurrent expenditures".

18/ Convention, annex VI, article 19.

Annex I

POST REQUIREMENTS OF THE REGISTRY

ASG (Acting D-2)	D-2 (Acting D-1)	P-5	P-4	P-3	P-2/1	Total Professional and above	General Service (Principal levels)	General Service (Other levels)	Total General Service	Grand total
1	1	1	1	1	2	7	3	11	14	21

Annex II

DESIGNATIONS AND STAFFING LEVELS OF THE REGISTRY
DURING THE INITIAL PERIOD

29 November 1995

EXPLANATORY NOTE TO ANNEX V
(SPLOS/WP.1)

Staffing for initial period August 1996-March 1997

Professional and above

1 D-2 Registrar (Acting)
1 D-1 Principal Legal Secretary/Deputy Registrar (Acting)
1 P-5 Head, Administration and General Services (Executive Officer)
1 P-4 Head, Linguistics Services (English/French), Translation and Interpretation
1 P-3 Head, Documents Section/Library/Archives
1 P-2 Associate Secretary (Legal)
1 P-2 Budget/Accounts/Computer Systems Officer

7 Professionals

General Service level

1 Secretary to President
1 Secretary to Registrar (Acting)
1 Secretary to Principal Legal Secretary/Deputy Registrar
1 Administrative Assistant
1 Personnel Clerk
1 Finance Clerk
1 Procurement/Transport Assistant
3 Secretaries to Judges/Word Processor pool (for reports, documentation, etc.)
2 Word Processors (Linguistic services, English-French)
2 Security Officers (Part-time drivers/Messengers)

14 General Service

Note: This list has been reproduced in the same form and with the same content as circulated at the third Meeting of States Parties on 29 November 1995.

Annex III

[Table 1]

ADMINISTRATIVE EXPENSES OF THE TRIBUNAL INITIAL PERIOD
AUGUST 1996-DECEMBER 1997 (PRELIMINARY ESTIMATES)

(In thousands of United States dollars)

30 November 1995

Object of expenditure	
A. Recurrent expenditures	
Established posts	2 050.0*
Temporary assistance for meetings	116.9
General temporary assistance	107.0
Overtime	24.5
Common staff costs	63.0*
Representation allowance	3.1
Official travel	150.0
External printing and binding	37.8
Annual and special allowances of Members	2 452.6**
Maintenance of premises	143.4*
Rental and maintenance of equipment	141.4
Communications	53.9
Hospitality	4.2
Miscellaneous services	2.9
Supplies and materials	46.6
B. Non-recurrent expenditures	
Furniture and equipment	173.0
Total	5 570.3*
C. Start-up (April-July 1996)	
As per paragraph 34	191.5*
Subtotal	5 761.8**

/...

D. Contingency (January-December 1997)

Temporary Staff (5) X (12 months) (On authorization by the President arising from need in particular related to submission of a case)	409.1*
GRAND TOTAL	6 170.9**

* Indicates changes from SPLOS/WP.1.

** Indicates changes from SPLOS/WP.1/Rev.1

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